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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/302,375	04/30/1999	ALAN STANLEY JOHN CHAPMAN	13118	6808

7590 05/07/2003

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EXAMINER

NGUYEN, STEVEN H D

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 05/07/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/302,375

Applicant(s)

CHAPMAN ET AL.

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 15-35, 37 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 15-35 and 37-38 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.
2. This application contains claims 15-25 and 37-38 drawn to an invention nonelected without traverse in Paper No. 5. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-14 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Davies (USP 6483805)

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the

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inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1, 8 and 36, Davies discloses (Figs 1-6 and col. 1, lines 14 to col. 12, lines 40) a transmission device (Fig 1, Ref 10) for receiving the aggregate traffic streams, each comprises a plurality of packets, each has an identifier and forwarding the streams to the destination point and comprising a control unit (Fig 1, Ref 10a) for receiving an ack message from the destination point to notify the transmission device that a certain packet released from the transmission device has been received at the destination point and the control unit uses the ack message to regulate a rate at which packets are released from transmission device (Col 8, lines 25 to col. 9, lines 44).

Regarding claims 2 and 9, Davies discloses control unit does not add any element to the packets of the streams (Col 8, lines 25 to col. 9, lines 44).

Regarding claims 3 and 10, Davies discloses ack message conveys information relative to the packet identifiers (it is inherently for ack message to carrier packet identifier to notify the node 10).

Regarding claims 4-7 and 11-14, Davies discloses a data structure for recording the identifiers of packets and comparing with the ack message to identify which packets has been received and loss at the destination point in order to regulate the flow rate by progressively increasing the rate if the destination received a packet and decreasing the rate if the destination point has not receives at least one packet (Fig 1. Ref 10b and Col 8, lines 25 to col. 9, lines 44).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-14 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohsawa (USP 5519699) in view of Siu (USP 6252851).

Regarding claims 1, 3-8 and 10-14 and 36, Ohsawa discloses (Figs 2-12 and col. 1, lines 10 to col. 7, lines 11) a transmission device a transmission device (Fig 2, Ref 3) for receiving the aggregate traffic streams, each comprises a plurality of packets, each has an identifier and forwarding the streams to the destination point and comprising a control unit (Fig 2, Ref 33) for receiving an ack message from the destination point to notify the transmission device that a certain packet released from the transmission device has been received at the destination point and ack message conveys information relative to the packet identifiers (Fig 4, Routers receives ack message and using this message to erase the data packets in the router by comparing the packet identifier). However, Ohsawa does not disclose the control unit uses the ack message to regulate a rate at which packets are released from transmission device. In the same field of endeavor, Siu discloses a router (Figs 1-12 and col. 1, lines 15 to col. 23, lines 5) which implements a TCP acknowledgement based flow control mechanism for regulating the transmission rate based on the ack message that received from a destination device and recording the identifiers of packets and comparing with the ack message to identify which packets has been received and loss at the destination point in order to regulate the flow rate by progressively

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increasing the rate if the destination received a packet and decreasing the rate if the destination point has not receives at least one packet (Col. 1, lines 47 to col. 2, lines 26).

Since, Ohasawa suggests the use of window size to transmit the data packets between the routers (Fig 11). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a TCP acknowledgement based flow control mechanism for regulating the transmission rate based on the ack message that received from a destination device as disclosed by Siu's system into Ohasawa's system. The motivation would have been to improve the throughput of router.

Regarding claims 2 and 9, Ohsawa discloses control unit does not add any element to the packets of the streams (Fig 4, Router 3 does not add any element to packets before transmitting them to router 4).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kalampoukas (USP 6438101) discloses a method and apparatus for managing congestion within an interworking using widow adaption.

Ruutu (USP 6219713) discloses a method and apparatus for adjusting of TCP sliding window with information about network conditions.

Chapman (USP 6493316) discloses a method and apparatus for managing bandwidth for a packet based connection.

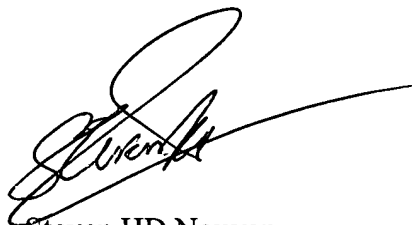
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (703) 308-8848.

The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D Vu can be reached on (703) 308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

A handwritten signature in black ink, appearing to read 'Steven HD Nguyen', with a long horizontal line extending to the right.

Steven HD Nguyen  
Primary Examiner  
Art Unit 2665  
May 2, 2003